IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Munna Ram & Ors. Vs. State of Rajasthan

S.B.CR. REVISION PETITION NO.43/2007

Date of Order : August 14, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr.Sandeep Mehta, for the petitioner.
Mr.Vishal Raj Mehta, P.P. for the State.

BY THE COURT:

By the instant criminal revision petition under section 397 read with section 401 Cr.P.C., the accused-petitioners have challenged the order dt. 1.12.2006 passed by Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Jodhpur (for short `the trial court hereinafter) whereby the trial court framed the charges against the petitioners for the offences under sections 147, 148, 353/149 and 399 I.P.C. Aggrieved by the order impugned to the extent framing charge under section 399 I.P.C., the petitioners have filed the instant revision petition.

I have heard learned counsel for the petitioner. Carefully

gone through the order impugned and the challan papers.

It is contended by the learned counsel for the petitioners that no arm has been recovered from either of the petitioners. However, a "Saria" alleged to have been recovered from the petitioner No.3 and an empty cover of sword from a jeep and, therefore, it cannot be inferred that having a "Saria and an empty cover of sword, the petitioners were intended to commit dacoity. There is no ingredient of the offence under section 399 I.P.C. i.e. an attempt with regard to preparation of committing the offence of dacoity. In the circumstances, therefore, the order impugned to the extent framing charge for the offence under section 399 I.P.C. cannot be sustained and is liable to be set aside.

In this view of the matter, the order impugned to the extent framing charge for the offence under section 399 Cr.P.C. is set aside. Rest of the charges framed by the trial court qua petitioners are maintained.

Consequently, the revision petition is partly allowed.

[H.R.PANWAR],J.

m.asif/-